

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SUMITOMO REALTY & DEVELOPMENT)
CO., LTD,)
Plaintiff,) Case No.: 2:19-cv-01899-GMN-VCF
vs.)
TEKURO KAMADA PROCTOR,)
Defendant.) **ORDER**

Pending before the Court is the Motion for Leave to File Amended Complaint, (ECF No. 9), filed by Plaintiff Sumitomo Realty & Development Co., Ltd. (“Plaintiff”). Defendant Tekuro Kamada Proctor (“Defendant”) did not file a response in opposition. For the reasons discussed below, Plaintiff’s Motion for Leave to File Amended Complaint is **GRANTED**.

I. BACKGROUND

On October 28, 2019, Plaintiff filed the Complaint before this Court alleging an action for recognition of a foreign final judgment pursuant to the Uniform Foreign-Country Money Judgments Recognition Act as adopted and codified in NRS 17.700 *et seq.*, “and pursuant to the principals of international comity.” (Compl. ¶ 1, ECF No. 1). In particular, the Complaint alleges that Defendant was properly served with a Japanese complaint, in accordance with the Hague Convention, and a judgment was entered by the Tokyo District Court against Defendant in the amount of \$682,265.93. (*Id.* ¶¶ 17, 18). The Complaint further alleges that the judgment is final and conclusive, and is entitled to recognition and enforcement by this Court. (*Id.* ¶¶ 24, 25).

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2 **II. LEGAL STANDARD**

3 Under Rule 15 of the Federal Rules of Civil Procedure, the court has discretion
 4 to grant leave and should freely do so “when justice so requires.” Fed. R. Civ. P.
 5 15(a); see also *Allen v. City of Beverly Hills*, 911 F.2d 367, 373 (9th Cir. 1990). When
 6 determining whether to grant leave to amend under Rule 15(a), a court should
 7 consider: (1) undue delay; (2) undue prejudice to the opposing party; (3) whether the
 8 request is made in bad faith; and (4) whether the amendment would be futile.
 9 *Leadsinger, Inc. v. BMG Music Pnbl’g*, 512 F.3d 522, 532 (9th Cir. 2008); see also
 10 *Sharkey v. O’Neal*, 778 F.3d 767, 774 (9th Cir. 2015). In exercising its discretion, “a
 11 court must be guided by the underlying purpose of Rule 15—to facilitate a decision
 12 on the merits rather than on the pleadings or technicalities.” *DCD Program, Ltd. v.*
 13 *Leighton*, 833 F.2d 183, 186 (9th Cir. 1987) (quotation omitted).

14 **III. DISCUSSION**

15 In its Motion, Plaintiff seeks to correct a scrivener’s error. (Pl.’s Mot. to Am. at
 16 1, ECF No. 9). Plaintiff explains that paragraph 15 of the Complaint incorrectly alleges
 17 the Japanese complaint at issue was filed on or about July 17, 2017. (*Id.*). However,
 18 the Japanese complaint was filed on June 23, 2017. (*Id.* at 2). Plaintiff indicates that
 19 its error “resulted from incorrectly using the July 11, 2017 date on which its Petition to
 20 Revise the Japanese Complaint was filed[.]” (*Id.*). “To ensure a correct record and
 21 avoid confusion in the future, Plaintiff requests leave to file an amended complaint to
 22 correct Plaintiff’s scrivener’s error.” (*Id.*). Further, Plaintiff represents that “[t]he
 23 amendment will not prejudice Defendant or produce undue delay, and it is neither
 24 futile nor sought in bad faith.” (*Id.*). Defendant has not filed a response in opposition,
 25 and therefore, consents to the granting of Plaintiff’s Motion. See D. Nev. LR 7-2(a)

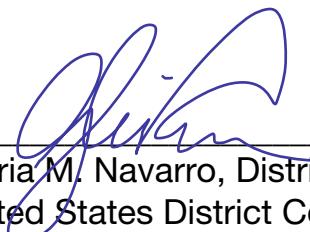
1 (“The failure of an opposing party to file points and authorities in response to any
2 motion . . . constitutes a consent to the granting of the motion.”). In light of the strong
3 presumption in favor of granting leave to amend, and Defendant’s consent to the
4 same, the Court finds good cause to grant Plaintiff’s Motion for Leave to File
5 Amended Complaint.¹

6 **IV. CONCLUSION**

7 **IT IS HEREBY ORDERED** that Plaintiff’s Motion for Leave to File Amended
8 Complaint, (ECF No. 9), is **GRANTED**. Plaintiff shall have ten (10) days from the entry
9 of this Order to file the Amended Complaint separately on the docket.

10 **IT IS FURTHER ORDERED** that Defendant’s Motion to Dismiss, or in the
11 alternative, Motion for Summary Judgment, (ECF No. 6), is **DENIED as moot**. The
12 Court denies this motion without prejudice.

13 **DATED** this 28 day of September, 2020.

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Gloria M. Navarro, District Judge
United States District Court

¹ Also before the Court is Defendant’s Motion to Dismiss, or in the alternative, Motion for Summary Judgment, (ECF No. 6). “[A]n amended complaint supersedes the original, the latter being treated thereafter as non-existent.” *Ramirez v. County of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015). As Defendant’s Motion pertains to the original Complaint, the Court denies it without prejudice as moot. Defendant may refile her motion with respect to the operative amended complaint.